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7 Attorneys for Plaintiff,
8 BEOM SIK KIM

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 BEOM SIK KIM,

CASE NO.: 2:15-cv-07896

12 Plaintiff

COMPLAINT FOR:

13
14 v.

15 TILLY'S INC., a Delaware
16 Corporation; LDLA CLOTHING
17 LLC., a California Limited Liability
18 Company; and DOES 1 through 10,
19 inclusive,

COPYRIGHT INFRINGEMENT

Jury Trial Demanded

20 Defendants
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25 COMES NOW, plaintiff BEOM SIK KIM ("Plaintiff") and complains of and
26 alleges the following:
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JURISDICTION AND VENUE

1. This is an action for copyright infringement under the Copyright Act of 1976, Title 17 U.S.C. § 101 et seq., seeking damages, attorneys' fees, injunctive relief, and other relief based upon claims related to the misappropriation of Plaintiff's intellectual property.

2. This Court has federal question jurisdiction under 28 U.S.C. §§1331, 1338(a).

3. The claims asserted herein arose in this judicial district and all Defendants do business in this judicial district.

4. Venue in this judicial district is proper under 28 U.S.C. §1391(b), (c) and/or (d) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

The Plaintiff

5. Plaintiff is an individual with his principal place of business in Los Angeles, CA 90021.

The Defendants

6. Plaintiff is informed and believes and thereon alleges that a defendant, LDLA CLOTHING LLC (“LDLA”), a California Limited Liability Company, is a business existing under the laws of the State of California with its principal place of business in Commerce, California 90040.

7. Plaintiff is informed and believes and thereon alleges that Defendant LDLA is in the business of manufacturing and/or purchasing and selling garments through various retail stores, including but not limited to the stores owned by Defendant TILLY'S INC (“TILLY'S”) in Los Angeles, California.

The Plaintiff's Copyrights

8. Plaintiff is the owner of all copyright in the design entitled “Paradise California, 4442-SP” (“Subject Design”), copyright attested by the copyright registration certificate Number Vau1-163-684, Exhibit A.

9. The Subject Design contains materials wholly original to the author and they are copyrightable subject matter under the laws of the United States.

10. Plaintiff showed Subject Design to many customers and business associates for their use of Subject Design for fee and/or imprinted the Subject

1 Design on garments for sale throughout the United States, specifically including but
2 not limited to, the greater Los Angeles area.

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5 **The Defendants' Infringing Activities**

6 11. Plaintiff found evidence that Defendant TILLY'S has ordered,
7 distributed and sold garments that infringe the Plaintiff's copyright. The snapshots
8 of webpages showing an infringing garment are enclosed herein. Exhibit B.

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10 12. Plaintiff believes and therefore alleges that the infringing garment was
11 sold by Defendant LDLA to Defendant TILLY'S.

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13 13. Plaintiff believes and therefore alleges that the infringing garment
14 shows substantially similar design to the Subject Design. In fact, about the only
15 differences between the Subject Design and the infringing design are that (1) the use
16 of black and white on the pineapple is reversed and (2) the color used for the glasses
17 is changed from red to pink, while showing a slightly different set of palm trees on
18 the glasses.

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20 14. Plaintiff has not licensed Subject Design to either Defendants TILLY'S
21 or LDLA and Plaintiff has not sold any garments with Subject Design to either
22 Defendants TILLY'S or LDLA.

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24 15. Based on information and belief, Plaintiff alleges that Defendants
25 TILLY'S and/or LDLA knowingly, willfully, and wantonly ordered, purchased,
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1 imprinted, and manufactured infringing copies of Subject Design when Defendants
2 TILLY'S and/or LDLA realized that the Subject Design was popular.

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4 16. Based on information and belief, Plaintiff alleges that Defendants
5 TILLY'S and/or LDLA's infringement of the Plaintiff's copyrights is, if not found to
6 be willful, then at least in gross negligence.

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8 17. Based on information and belief, Plaintiff alleges that the attempts by
9 Defendants TILLY'S and/or LDLA to hide its willful nature of infringement are
10 highlighted by using what appears to be quite similar copy of Subject Design so that
11 no one would even suspect a copyright infringement.
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15 **The Defendant DOES' Infringing Activities**

16 18. Based on information and belief, Plaintiff alleges that defendants,
17 DOES 1 through 10, inclusive, created, assembled, distributed, manufactured and/or
18 sold garments comprised of garments printed with the derivative work of one or
19 more of Plaintiff's copyrighted Subject Design or that have otherwise contributed to
20 the infringement of one or more Plaintiff's copyrighted Subject Design. The true
21 name and capacities, whether corporate, individual or otherwise, of the Defendant
22 DOES 1 through 10, inclusive, are unknown to Plaintiff who therefore sues said
23 Defendants by such fictitious names, and will ask leave to amend this Complaint to
24 show their true names and capacities when the same have been ascertained.
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1 19. Based on information and belief, Plaintiff alleges that at all times
2 relevant hereto, each of the Defendants, including without limitation the DOE
3 Defendants, was the agent, affiliate, officer, director, manager, principal, partner,
4 joint venturer, alter-ego and/or employee of the remaining Defendants and was at all
5 times acting within the scope of agency affiliate, officer, director, manager,
6 principal, partner, joint venturer, alter-ego and/or employment relationship and
7 actively participated in, or subsequently ratified and adopted, or both, each and all of
8 the acts or conduct alleged herein, with full knowledge of all the facts and
9 circumstances, including, but not limited to, full knowledge of each and all of the
10 violations of Plaintiff's rights and the damages to Plaintiff proximately caused
11 thereby.
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18 **CLAIM FOR RELIEF**

19 **COPYRIGHT INFRINGEMENT UNDER 17 U.S.C. §101 ET SEQ.**

20 (Against All Defendants and Each of Them)
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23 20. Paragraphs 1-19 are incorporated herein by reference.
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25 21. Based on information and belief, Plaintiff alleges that Defendants
26 TILLY'S and LDLA had access to the Plaintiff's Subject Design, printed, made, or
27 purchased one or more copies of the Subject Design, and then distributed and/or
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1 sold Infringing Garments having one or more substantially similar derivative work
2 of the Plaintiff's Subject Design.

3 22. Moreover, based on information and belief, Plaintiff alleges that
4 Defendants TILLY'S and LDLA fully knew or had a reason to know that Subject
5 Design were Plaintiff's copyrighted property and that Defendants TILLY'S and
6 LDLA may not reproduce, copy, distribute, or sell derivative works on Subject
7 Design without Plaintiff's consent, as attested by the Defendants TILLY'S and/or
8 LDLA's use of a substantially similar design which has been modified slightly from
9 the Subject Design.
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12 23. Furthermore, based on information and belief, Plaintiff alleges that
13 Defendants TILLY'S and/or LDLA fully knew or had a reason to know that
14 purchasing, distributing and selling Infringing Garments would infringe on the
15 Plaintiff's copyright when Defendants manufactured, caused to manufacture, order,
16 caused to order, and/or distribute and sell the substantially similar Infringing
17 Garments.
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20 24. Based on information and belief, Plaintiff alleges that by engaging in
21 the above referenced conduct, Defendants TILLY'S and LDLA acted in willful
22 disregard, if not willful, then in gross negligence, of laws protecting Plaintiff's
23 copyright.
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1 25. Based on information and belief, Plaintiff also alleges that Defendant
2 DOES, and each of them, made one or more copies of Subject Design, and then
3 distributed and/or sold garments with derivative copies of the Plaintiff's Subject
4 Design.
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6 26. Moreover, based on information and belief, Plaintiff also alleges that
7 Defendant DOES, and each of them, fully knew or had a reason to know that
8 Subject Design is Plaintiff's copyrighted property and that Defendant DOES may
9 not reproduce, copy, or create derivative works on Subject Design without
10 Plaintiff's consent.
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12 27. Based on information and belief, Plaintiff also alleges that the attempt
13 by Defendant DOES, and each of them, to hide its willful nature of infringement is
14 only highlighted by making either no modifications or very little modifications to
15 one or more parts of Subject Design to pass as the Plaintiff's goods.
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17 28. Based on information and belief, Plaintiff alleges that by engaging in
18 the above referenced conduct, Defendant DOES, and each of them, have acted in
19 willful disregard of laws protecting Plaintiff's copyright.
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21 29. Based on information and belief, Plaintiff alleges that Defendants, and
22 each of them, if not directly liable for infringement of Plaintiff's copyright, are also
23 liable for contributory infringement because each Defendant knew or should have
24 known of the direct infringement and assisted or encouraged the infringement.
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1 30. Based on information and belief, Plaintiff alleges that Defendants, and
2 each of them, if not directly liable for infringement of Plaintiff's copyright, are also
3 vicariously liable for the subject infringements because each Defendant enjoys a
4 direct financial benefit from another's infringing activity and has the right and
5 ability to supervise the infringing activity.
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8 31. Based on information and belief, Plaintiff alleges that Defendants' acts
9 of copyright infringement have caused Plaintiff to suffer, and to continue to suffer,
10 substantial damage to its business in the form of diversion of trade, loss of income
11 and profits, and a dilution of the value of its rights.
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13 32. Based on information and belief, Plaintiff alleges that as a direct result
14 of the acts of copyright infringement, Defendants, and each of them, have obtained
15 direct and indirect profits that they would not otherwise have realized but for their
16 infringement of Plaintiff's copyrighted Subject Design. Plaintiff is entitled to
17 disgorgement of each Defendant's profits directly and indirectly attributable to said
18 Defendants' infringement of Subject Design.
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22 33. Based on information and belief, Plaintiff alleges that, Defendant's acts
23 of copyright infringement as alleged above were, and continue to be, willful,
24 intentional and malicious, subjecting Defendants, and each of them, to liability for
25 statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to
26 one hundred fifty thousand dollars (\$150,000.00) per infringement.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. That Defendants, and each of them, and their respective agents and servants be enjoined from infringing Plaintiff's copyright in any manner;
2. That Plaintiff be awarded Defendants' all profits plus all losses of Plaintiff as a result of the foregoing infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages, as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
3. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
4. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts of infringement;
5. For pre-judgment interest as allowed by law;
6. For the costs of this action; and
7. For such further legal and equitable relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable in this action pursuant to F.R.C.P. 38.

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Dated: October 7, 2015

PARK LAW FIRM

By: /s/John K. Park/
John K. Park
Attorneys for Plaintiff